

# 7 FAM 920 OBTAINING TESTIMONY BY DEPOSITION

## 7 FAM 921 PROCEDURES FOR ORAL EXAMINATION OF WITNESSES

(TL:CON-60; 6-17-94)

a. *Procedures for oral and written depositions are similar [see 7 FAM 921 Exhibit 921a for guidelines for taking depositions at post]. Written depositions are those where counsel are not present, but have provided questions in writing which are posed by the consular officer and answered orally by the deponent. Oral depositions are those where counsel are present and pose the questions themselves. They are preferred because counsel can adjust questions in light of the deponent's answers. If attorneys agree, the consular officer may withdraw after the necessary oaths are taken.*

b. A deposition should be scheduled for a date and time mutually agreeable to the consular officer, counsel, and witness(es).

c. *While the duties of a consular officer include contacting the witness(es) and acting as, or retaining, an interpreter/translator and stenographer, resource constraints generally require that requesting counsel arrange for the presence or appearance of the witness, stenographer, and interpreter at the consular section for the taking of the deposition. Consular officers assist only as necessary.*

d. If requesting counsel, citing 22 CFR 92.56, asks the consular officer to make all such arrangements, point out that the consular officer has other statutory *duties* that must take *precedence*. In addition, the consular officer is responsible for emergency services. Consequently, arrangements for the logistics of a deposition may take the consular officer more time than they would requesting counsel.

e. The consular officer administers the oaths to the witness(es), the stenographer and, if present, the interpreter *or translator*. After the oaths have been taken, the consular officer must ensure that *any withdrawal or objection is recorded, noting the agreement of the attorneys and whether the officer was subject to recall*. The names of all persons present should also be *included* in the record.

f. The consular officer must ensure that the stenographer is instructed by the parties' counsel to transcribe the proceedings *verbatim* and to give the transcript to the witnesses for correction and signature. Counsel can waive this requirement by mutual consent in certain cases.

g. When the transcript has been made, the stenographer must execute before the consular officer an affidavit certifying that the record in the matter is a true and accurate transcription from notes made by the stenographer [see sample Certification of True Copy, 7 FAM 837 Exhibit 837.1 ]. This affidavit must give the date on which the notes were taken and indicate whether the transcribed testimony was given to the witnesses for correction and, if so, whether any changes were made and in what manner. It must be attached to the testimony.

h. The consular officer must also prepare a certification indicating that the witnesses (listed by name) were duly sworn by the consular officer and that, in accordance with an agreement of the parties, the officer withdrew, subject to recall, as reflected in the attached notice of commission. This certification must also refer to the stenographer's affidavit of accuracy [see section 7 FAM 925.1 e].

i. Consular officers must charge the current fees for administering each oath, for handling and returning the deposition, and for performing any other services for which fees are customarily charged [see *Schedule of Fees*, 22 CFR 22.1]. Do not charge the deposition fee unless the officer was recalled periodically during the taking of the deposition. *Bear in mind that:*

(1) *A minimum deposit of \$410.00 must be paid to the Embassy or Consulate before a deposition can be scheduled. If the consular officer believes the fees will far exceed the minimum deposit, a larger deposit should be requested. The fee should be in the form of a certified check or money order payable to the post concerned. It is used to cover consular officer and staff time in scheduling the deposition, and is not refundable if the deposition is canceled. If rescheduled, another deposit should be collected. Submit the deposit to the post's class B cashier for placement in a post SDA (Suspense Deposit Abroad 19x6809) account, to be drawn upon for deposition fees as required.*

(2) Payment in full should be received prior to the departure of the attorneys. *Exception:* if large sums of money are necessary, a written acknowledgment for the debt should be executed by the requesting counsel in the form of an affidavit.

(3) If depositions are taken outside consular premises at some distance, charge appropriate fees for consular transportation costs [see *Schedule of Fees*, 22 CFR 22.1, item 94].

j. The consular officer, as a rule, may not serve as interpreter or translator. While 22 CFR 92.56 states that consular officers may act as interpreters/translators, few officers are fluent enough in technical aspects of languages to do so. When necessary and practicable, the officer may see to it that a qualified interpreter is engaged. Counsel must agree about the fees appropriate for such private persons and *should pay for the services*. If a U.S. Government agency requests retention of such services, *it should furnish* a Federal appropriation number and fund code.

k. *If no qualified interpreter or translator is available in the host country, the witness being deposed must have the questions posed and the responses translated by a competent person engaged outside the host country by the requesting counsel. In the case of written interrogatories, the questions must always be submitted both in English and in translation in the native language of the deponent. The deponent(s) may record responses in writing in their native language. Funds for translating the questions and the deponent's responses into English must be provided by the requesting party.*

l. Requesting parties often bring a stenographer from the United States in oral deposition proceedings. In the case of written interrogatories, if no stenographer is available locally, the witnesses may write out their own responses. If appropriate, a Foreign Service national employee or Foreign Service secretary may act as stenographer, charging fees set forth in 22 CFR 22.1, *Schedule of Fees*, item 69(b).

m. *The consular officer should administer oaths with the appropriate solemnity.*

(1) Oath for Witnesses:

Do you solemnly swear (or affirm) that you will tell the truth, the whole truth, and nothing but the truth, in answer to the several *questions* now to be put to you?

(2) Oath for Stenographer:

Do you solemnly swear (or affirm) that you *know the English and (name of appropriate language) languages and that* you will truly and impartially reduce to writing or (take down notes and faithfully transcribe) the *questions to be asked of the witness* and the testimony of (witness' name), a witness now to be examined?

(3) Oath for Interpreter or Translator:

Do you solemnly swear (or affirm) that you know the English and (name of) languages and that you will truly and impartially interpret (or translate) the oath to be administered and *questions* to be asked of (name of witness), a witness, now to be examined, out of the English into the (name of) language, and that you will truly and impartially interpret (or translate) the answers of (name of witness) out of the (name of) language, into the English language?

n. Counsel for the party requesting an oral deposition has the right to conduct a direct examination of the witness without interruption, except in the form of objection by the opposing counsel. The opposing counsel has the same right on cross-examination. Cross-examination may be followed by re-direct and re-cross-examination until the interrogation is completed.

o. The consular officer should try to restrain counsel from indulging in *lengthy conversations among themselves*, digressions *from the principal line of argument*, or asides, and attempts to mislead the witness. Some witnesses may wish to be accompanied by an attorney to protect their interests.

p. The consular officer has no authority to sustain or overrule objections but should *ensure that they are recorded, as provided in section 7 FAM 922*.

## **7 FAM 922 PROCEDURES FOR WRITTEN EXAMINATION OF WITNESSES**

(TL:CON-60; 6-17-94)

a. *While written depositions are now only rarely taken by consular officers, it remains important to follow carefully procedures in obtaining testimony [see 22 CFR 92.58]. When a witness does not understand the meaning of a question, the consular officer should explain it, if possible, taking special care to elicit an answer strictly responsive to the question.*

*NOTE: While 22 CFR uses the term "interrogatories", the Federal Rules of Civil Procedure has been changed to use the term "questions". This subchapter reflects the change, which is more easily understood by witnesses.*

b. Do not give the witness a copy of the questions, or allow the witness to examine them, before the questioning. It may be necessary for the officer to indicate the general nature of the evidence being sought, but the officer should not give this information in sufficient detail to permit the witness to formulate answers in advance.

c. The written questions should not be repeated in the record, but references to them should be made as follows:

To the first question, the witness responded that. . . .

d. All written questions must be put to the witness, even if the witness disclaims further knowledge of the subject.

e. When counsel for all the parties attend an examination conducted on written *questions*, the consular officer may, if counsel consents, permit oral examination of the witness following the examination on written *questions*. The oral examination should be conducted in the manner and order as if no written examination had preceded it.

f. To refresh a faded memory, permit a witness to refer to notes, papers, or other documents. Such occurrences must *be* noted in the record *of the testimony* [see 22 CFR 9260(b)].

g. When a witness confers with the *accompanying attorney* before answering an interrogatory, the consular officer should also *include* that fact in the record [see 22 CFR 9260 (c)].

h. The consular officer *should request* the witness not to leave the officer's presence or the presence of the counsel asking the questions during the examination, except during recesses for meals, rest, and similar purposes. *Note* in the record failure of the witness to comply with this request.

i. If examination of a witness requires several hours or days, *permit* recesses for reasonable periods and for sufficient reasons.

j. The consular officer must mark, by exhibit numbers or letters, all documents identified by a witness or counsel and submitted for the record.

## **7 FAM 923 ROLE OF U.S. JUDGES**

(TL:CON-60; 6-17-94)

a. Judges from U.S. Federal, State, or local courts, including administrative law judges, should not perform official functions in foreign countries without the express consent of host country authorities. Such actions may violate the judicial sovereignty of the host country.

b. Judges occasionally attempt to "hold court" in U.S. embassies and consulates during the taking of depositions. Consular officers should report such incidents to the Department (CA/OCS).

c. In March 1978 the Judicial Conference of the United States, Committee on Court Administration, disapproved, as a matter of policy, the practice of Federal judges traveling abroad to take testimony or depositions in cases pending before them. See *also* section 7 FAM 942 .

## 7 FAM 924 ROLE OF SPECIAL MASTERS

(TL:CON-60; 6-17-94)

a. *A Special Master is an officer appointed by a court to act as its representative in some limited or specific legal function. Federal Special Masters are appointed pursuant to Rule 53 of the Civil Procedure. Like judges of U.S. Courts, Special Masters should not perform official functions in foreign countries without host country consent.*

b. *The use of Masters is to aid judges in performance of special duties as they may arise in a case. Their appointment and activities are only for the purpose of assisting the court to get at the facts in cases of complicated litigation, usually where special knowledge or expertise is required.*

c. *The word "Master" includes a referee, an auditor, a commissioner, and an assessor. Participation of a Special Master in depositions in complicated matters can be very helpful to consular officers who generally are not attorneys and who do not have expertise in the subject matter of the deposition.*

d. *When a Special Master participates in a deposition, the consular officer should instruct the court reporter/stenographer to include in the record any objection the participants may have to any of the actions of the Master.*

## 7 FAM 925 PREPARATION OF THE RECORD

### 7 FAM 925.1 Transcription and Signing of the Record

(TL:CON-60; 6-17-94)

a. *Depositions are usually recorded by a stenographer or court reporter, but other means, such as tape recording or videotaping, may be used. [For information about how to prepare the record in such cases, see section 7 FAM 926.3 e.]*

b. *After examination of a witness is completed, the stenographic record of the deposition must be fully transcribed, and the transcript attached securely to any document or documents to which the testimony in the record pertains.*

c. *The transcription must then be submitted to the witness for examination by and read to or by the witness, unless the examination and reading are waived by the witness. Any changes in form desired by the witness must be entered on the record, at the end of the record of the deposition, by the consular officer, with a statement of the reasons given by the witness for the changes. No substantive changes can be made, but additions or clarifications may be added. *The deponent, however, may provide a statement correcting previous testimony, or otherwise protect against a charge of perjury.**

d. *The witness must then sign the transcript and initial in the margin each correction made at the witness's request. *Since the witness may depart before the transcript is completed, the consular officer should request counsel to send the original transcript to the witness with instructions to return it to the consular officer in person to sign it.**

e. *The stenographer and interpreter must execute affidavits certifying the accuracy of their work [see 7 FAM 925 Exhibit 925.1e ].*

f. *Some U.S. States require the witness and the officer taking the deposition to sign each page. Do so only on the explicit instructions of the requesting counsel [see the sample record of a deposition in 7 FAM 925 Exhibit 925.1f ].*

g. Charge appropriate fees and note them on the statement of account [for a sample statement, see 7 FAM 925 Exhibit 925.1g ].

h. The consular officer should prepare a closing certificate of the deposition [see 7 FAM 925 Exhibit 925.1h ].

## **7 FAM 925.2 Arrangement of Papers**

(TL:CON-60; 6-17-94)

a. Unless special instructions to the contrary are received, *arrange* the papers forming the completed record of the deposition in the following order from the bottom of the packet to the top:

(1) Commission to take depositions (or notice of taking depositions), *with written questions, if any*, exhibits, and other supporting documents fastened to it;

(2) Statement of fees charged;

(3) *Transcript of the deposition of the various witnesses*, including any exhibits the witnesses may have submitted;

(4) Stenographer/interpreter affidavits; and

(5) Closing certificate [see 7 FAM 925 Exhibit 925.1h ].

b. *Fasten* all the above papers together, and *affix* the consular officer's seal to the closing certificate. *Use* ribbons and wafer seals only if requested.

## **7 FAM 925.3 Filing of Depositions**

(TL:CON-60; 6-17-94)

a. *Place the above papers in an envelope and seal it with the wax engraving seal of the post or rubber stamp seal with the signature of the consular officer across the envelope flap. The envelope must be endorsed with the title of the action and marked and addressed to the clerk of the court.*

b. *Send the sealed envelope by registered mail to the counsel for the party that asked for the deposition unless the consular officer is instructed by counsel to send it to the court where the action is pending. If returned to the court, the envelope must indicate the title of the action [see 7 FAM 925 Exhibit 925.3b ]. When the action is a Federal criminal case, send it to the Department (CA/OCS) for onward transmission.*

c. *If international registered mail is unreliable in the host country, return depositions by pouch through the Department (CA/OCS) for relay to the court. Registered APO mail may also be used.*

## **7 FAM 925.4 Furnishing Copies**

(TL:CON-60; 6-17-94)

a. *Do not* send the original completed depositions to any of the parties to the action or to their attorneys. The consular officer may provide a copy of a deposition to the deponent or to any party to the action upon payment of the copying fees. *Such copies may also be presented to the parties of action directly by the stenographer employed by counsel.* If State rules require depositions to be sent to requesting counsel, comply with such a request.

b. *If a deponent desires certification under official seal that the copy is a true copy, also charge the certification fee prescribed in the Schedule of Fees.*

## **7 FAM 926 UNUSUAL PROCEDURES FOR RECORDING AND TAKING DEPOSITIONS**

### **7 FAM 926.1 Impact of Advancing Technologies**

(TL:CON-60; 6-17-94)

*The growing trend toward the use of telephones, videotape, tape recording and other more sophisticated ("High Tech") means of obtaining evidence abroad compels the consular officer to observe carefully the pertinent legal procedures, if any, of the host country. Obtaining evidence under certain circumstances may place additional burdens on the consular officer's time, especially when arrangements must be made for the use of dedicated international telephone lines and special telephone conference systems. When in doubt about recording or taking testimony under unusual circumstances, consult CA/OCS.*

### **7 FAM 926.2 Taking Depositions by Telephone**

(TL:CON-60; 6-17-94)

a. *Rule 30(b)(7) F.R. Civ. P. states that:*

The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone. For the purposes of this rule and Rules 28 (a), 37(b)(1), and 45(d), a deposition taken by telephone is taken in the district and at the place where the deponent is to answer the questions propounded to him.

b. Consular officers may be called upon to administer oaths to witnesses, generally on consular premises, who will then be deposed by telephone from the United States. Charge only the fee for administering oaths, since the requesting counsel will ask the questions by telephone and responses will be recorded in the United States by stenographic or other means.

## **7 FAM 926.3 Recording Depositions by Nonstenographic Means**

(TL:CON-60; 6-17-94)

a. Rule 30(b)(4), F. R. Civ. P. states that:

The parties may stipulate in writing or that court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at the party's own expense. Any objections under subdivision (c), any changes made by the witness, his signature identifying the deposition as his own, or the statement of the officer that is required if the witness does not sign, as provided in subdivision (e), and the certification of the officer required by subdivision (f) shall be set forth in writing to accompany a deposition recorded by nonstenographic means.

b. At present, the nonstenographic means referred to in Rule 30(b)(4) are tape recording and videotaping. The consular officer should amend the wording of the certification to state the means used to record the deposition. See 7 FAM 926 Exhibit 926.3b for guidelines on recording depositions by a nonstenographic *method (tape recording)*.

c. Counsel are responsible for providing their own tape recording and videotape equipment. Embassy equipment, when available, may be used to make a duplicate recording of the deposition *but advise* counsel that the consular officer will assume no responsibility for the quality of the recording.

d. Transporting electronic equipment of the kinds used in recording depositions is not permissible in some foreign jurisdictions. Be prepared to advise requesting counsel of the possibility that the host country government may confiscate the *equipment or otherwise require its pre-clearance into the host country*.

e. *In filing depositions executed by nonstenographic means, the consular officer should prepare written certification about both the administration of an oath to the witness and the video camera operator or operator of the recording device. Attach the certification to the videotape or tape recording, place it in an envelope, and seal it similar to the sealing of*  
of a deposition  
[see 7 FAM 925.2 b]. *Then send it to counsel or the court of pending action.*

## **7 FAM 927 THROUGH 929 UNASSIGNED**



# 7 FAM 921 Exhibit 921a

(TL:CON-60; 6-17-94)

## GUIDELINES FOR TAKING DEPOSITIONS

### GUIDELINES FOR TAKING DEPOSITIONS

#### THINGS TO REMEMBER CONCERNING THE SCHEDULING OF A DEPOSITION:

1. *Are depositions permitted by host country law? If so, is notification to the Foreign Ministry required?*
2. Is the requesting attorney an official of U.S. State, local or Federal government? If so, obtain host country clearance from the Foreign Ministry as appropriate.
3. Is the witness willing to be deposed?
4. Will the deposition be done with oral or written questions?
5. What date is proposed for taking the deposition? Is the date compatible with the consular officer's schedule?
6. How many people will be attending the deposition?
7. Will the deposition take place on consular premises? If so schedule the use of a room large enough to accommodate the deposition.
8. Will a consular officer be needed to administer oaths *to witnesses and others*? Will the officer's presence be required throughout the proceeding or can the officer withdraw after administering the oaths, subject to recall?
9. Will the services of a stenographer or interpreter/translator be required? Are such services available in the host country or must they be retained in the United States?
10. *Is the evidence to be obtained using nonstenographic means, such as telephone, videotape, or more advanced technology? Is so, obtain host country authority, if appropriate.*
11. *Who will arrange for the witness, stenographer, and interpreter to meet counsel at the post at a designated hour? (Preferably requesting counsel.)*
12. *Who is paying for the deposition? Obtain a deposit or Federal appropriation number and fund code.*

#### THINGS TO REMEMBER CONDUCTING THE DEPOSITION:

1. Administer oaths to stenographer, interpreter/translator, and witness as appropriate.
2. Consular officer withdraws, if appropriate, after instructing stenographer to record departure, enumerate names of those present, transcribe proceedings, and give transcript to the witness for review.
3. Stenographer and interpreter/translator execute affidavits of accuracy before consular officer.
4. Witness signs record of deposition before consular officer.
5. *At close of deposition* consular officer prepares final statement of account and closing certificate.
6. Consular officer collects *fees required under the Schedule of Fees for Consular Services (22 CFR 22.1)*.
7. Deposition documents are arranged and fastened together.
8. Deposition is placed in a sealed envelope *correctly* endorsed and addressed, bearing the post's seal, and is registered if mailed.

# 7 FAM 925 Exhibit 925.1e

(TL:CON-60; 6-17-94)

## AFFIDAVIT OF STENOGRAPHER

### VENUE.

Brazil )  
(Name of Country) )  
)  
)  
State of Planalto Central )  
(Name of County, Province, etc.) )  
)  
City of Brasilia )  
(Name of City) )  
)  
)  
Embassy of the United States of )  
America )  
(Name of Foreign Service Post) )

ss:

Before me, *Mercedes Y. Benevento*, Consul of the United States of America at *Brasilia, Brazil*, personally appeared the individual named below who, being duly sworn, made the following statements (or, the statements set forth in the attached instrument):

I, *Carlos deJ. Barbosa*, certify that I am a stenographer; that I faithfully transcribed the responses to the questions posed to the witness, *Mr. Lucas Silva Quintanilla*, as interpreted from English to Portuguese by Mr. Francisco Torres Ligiero, interpreter, and that the responses transcribed accurately record the witness' statements as interpreted.

\_\_\_\_\_  
(Signature of Stenographer)

*Carlos deJ. Barbosa*

\_\_\_\_\_  
(Typed Name of Stenographer)

*September 30, 1992*

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Consular Officer)

*Mercedes Y. Benevento*

\_\_\_\_\_  
(Typed Name of Consular Officer)

Consul of the United States of America

\_\_\_\_\_  
(Title of Consular Officer)

(SEAL)

*September 30, 1992*

\_\_\_\_\_  
(Date)

VENUE.

\_\_\_\_\_  
*Brazil*  
(Name of Country)  
  
\_\_\_\_\_  
*State of Planalto Central*  
(Name of County, Province, etc.)  
  
\_\_\_\_\_  
*City of Brasilia*  
(Name of City)  
  
\_\_\_\_\_  
Embassy of the United States of  
America  
(Name of Foreign Service Post)

ss:

Before me, Mercedes Y. Benevento, Consul of the United States of America at Brasilia, Brazil, personally appeared the individual named below who, being duly sworn, made the following statements (or, the statements set forth in the attached instrument):

I, Francisco Torres Ligiero, certify that I understand the English language and the Portuguese language. To the best of my knowledge and belief I did faithfully act as interpreter during the taking of the deposition of Mr. Lucas daSilva Quintanilla, translating the English interrogatories into Portuguese and the Portuguese responses into English; and that the responses transcribed by Mr. Carlos deJ. Barbosa, stenographer, accurately record the witness's statements as interpreted by me.

\_\_\_\_\_  
(Signature of Interpreter)

\_\_\_\_\_  
*Francisco Torres Ligiero*  
(Typed Name of Interpreter)

\_\_\_\_\_  
*September 30, 1992*  
(Date)

\_\_\_\_\_  
(Signature of Consular Officer)

\_\_\_\_\_  
*Mercedes Y. Benevento*  
(Typed Name of Consular Officer)

\_\_\_\_\_  
Consul of the United States of America  
(Title of Consular Officer)

(SEAL)

\_\_\_\_\_  
*September 30, 1992*  
(Date)

# 7 FAM 925 Exhibit 925.1f

(TL:CON-60; 6-17-94)

## RECORD OF A DEPOSITION

### VENUE

<u>Brazil</u>	)	
(Name of Country)	)	
	)	
<u>Federal District</u>	)	
(State/Province/District)	)	
	)	
<u>City of Brasilia</u>	)	
(Name of City)	)	
	)	
Embassy of the United States of	)	
America	)	ss:
(Name of Foreign Service Post)	)	

Deposition of a witness, taken before me, *Merrill J. Grover*, Consul of the United States of America at *Brasilia, Brazil*, under a commission (or notice) in a certain cause pending in the United States District Court for the Southern District of New York in the matter of the United States of America v. *Ricardo Alexander*, et al. CR-93-2893.

Because it appeared that the witness, *Mr. Lucas daSilva Quantanilla*, could not understand the English language (or could not intelligently testify in the English language) but understood well the *Portuguese* language, *Mr. Francisco Torres Ligiero*, interpreter, who understands both languages well, was sworn in as follows (quote the oath, Section 7 FAM 921 m(3)) and interpreted accordingly.

The *questions*, *cross questions*, and answers of the witness (or where the *questions* are written, the answers of the witness to the written questions) were taken down and transcribed by *Mr. Carlos deJ. Barbosa*, stenographer, who was sworn in as follows (quote oath, section 7 FAM 921.m(2)). The transcript was then read by the witness (or to the witness by interpreter) and was signed by the witness in my presence. *Mr. Lucas da Silva Quantanilla*, of *Rua Padre Joao Cordeiro, 523 Brasilia, Brazil*, a *hospital pharmacist*, of lawful age, after being duly sworn by me (quote section 7 FAM 921 m(1)) deposes and says:

To the first question: My name is Lucas daSilva Quantanilla.

To the second question: I am employed at the Sacred Heart Hospital as senior *pharmacist*.

(AND SO FORTH)

(If more than one witness is being deposed in a given case, the venue and the first paragraph citing the name of the case need not be repeated. Begin record of deposition of the second witness with repetition of the interpreter/stenographer paragraphs.)

Witness's Signature:

(Signature of Witness)

Lucas daSilva Quantanilla

(Typed Name of Witness)

(SEAL)

# 7 FAM 925 Exhibit 925.1g

(TL:CON-60; 6-17-94)

## STATEMENT OF ACCOUNT

### STATEMENT OF ACCOUNT

#### Tariff of Fees

Item No.

69(a)	Services of a diplomatic or consular officer, \$140.00 per hour or fraction thereof (3 hours)	\$420.00
69(b)	Services of FS Staff member as typist, per hour or fraction thereof (1 hour)	\$ 65.00
76	Photocopying or otherwise duplicating a document, \$0.25 per copy of each page (50 pages -- deposition Exhibit A)	\$ 12.50
	TOTAL CONSULAR FEES FOR TAKING DEPOSITION	\$497.50
	Postage for mailing original to Clerk of Court (name and address)	\$ 10.00
	Commercial Interpreter Fees (name and address) (\$50 per hour x 3 hours)	\$150.00
	Commercial Stenographer Fees (name and address) (\$20.00 per hour x 3 hours)	<u>\$ 60.00</u>
	TOTAL COST OF DEPOSITION	\$717.50

### STATEMENT OF COST OF ONE COPY OF DEPOSITION

#### Tariff of Fees

Item No.

76	Photocopying or otherwise duplicating a document \$0.25 per copy of each page (75 pages total: 25 page deposition plus 50 pages Exhibit A)	\$ 18.75
	Certifying under official seal that a copy or extract made from a private document is a true copy	<u>\$ 10.00</u>
	TOTAL FEES FOR ONE CERTIFIED COPY OF SEVENTY FIVE PAGE DEPOSITION AND EXHIBITS	\$ 28.75

# 7 FAM 925 Exhibit 925.1h

(TL:CON-60; 6-17-94)

## CLOSING CERTIFICATE OF A DEPOSITION

### VENUE

<u>Brazil</u>	)	
(Name of Country)	)	
	)	
<u>Federal District</u>	)	
(State/Province/District)	)	
	)	
<u>City of Brasilia</u>	)	ss:
(Name of City)	)	
	)	
Embassy of the United States of	)	
America	)	
(Name of Foreign Service Post)	)	

I do hereby certify that pursuant to a commission issued by the United States District Court for the Southern District of New York (or notice of the taking of a deposition), I examined Mr. Lucas DaSilva Quantanilla under oath (quote Section, 921 m. (1)) at my office in Brasilia, Brazil. The witness, known to me to be the person named and described in the questions and commission, was sworn by me (quote oath, Section 921 m. (1)) and acted as interpreter. Evidence was taken down by Mr. Carlos deJ. Barbosa, stenographer, who was sworn by me (quote oath, Section 921 m. (2)) and after being read over and corrected by the witness, was signed by the witness in my presence. I further certify that I am satisfied that neither Mr. Ligiero, Mr. Barbosa or myself are in any way related to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof I have signed this certificate and affixed the seal of the Embassy of the United States of America at Brasilia, Brazil.

\_\_\_\_\_  
(Signature of Consular Officer)

Mercedes Y. Benevento  
(Typed Name of Consular Officer)

Consul of the United States of America  
(Title of Consular Officer)

(SEAL)

September 30, 1992  
(Date)

# 7 FAM 925 Exhibit 925.3b

(TL:CON-60; 6-17-94)

## SAMPLE OF A FORMAT FOR ENVELOPE RETURNING A DEPOSITION

United States District Court  
for the District of Southern  
California

*Modular Concepts of CA, Plaintiff*

v.

*Starr Specialists, Inc., Defendant*

)  
)  
)  
)  
)  
)  
)

CIV-File No. 93-67379  
Deposition of *Job Ross*  
*Silversmith*



## 7 FAM 926 Exhibit 926.3b

(TL:CON--60; 6-17-94)

### GUIDELINES FOR RECORDING DEPOSITIONS BY NONSTENOGRAPHIC MEANS

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1. The *recording equipment* shall be of such quality as to produce an accurate and trustworthy record, *and shall be provided by the requesting party.*
2. An independent operator, after being duly sworn, shall operate and monitor the *recording equipment* to ensure that a recording of the testimony is being made.
3. Each participant in the deposition shall be equipped with an individual microphone.
4. Two original *recordings* shall be made, each on a separate *recording machine*, and each receiving its signal from the microphones. Specifically, one is not to be the re-recording of the other.
5. The two recording machines upon which the originals are made are to be operated in tandem. They shall be equipped with digital counters to facilitate the making of a log index.
6. Counsel *must* keep in mind that one of the significant problems with the use of tape recorders is the identification of the speaker. The record must accurately reflect the parties to the deposition, as well as identify the speakers at any particular time. *Prior to the start of direct examination, each person who speaks on record, including counsel, should identify himself or herself.* If the subsequent testimony is limited to an exchange between two parties, *no further words* identifying the speakers are necessary. However, any third party, such as opposing counsel, who interjects any statements must precede interjection with words of identification.
7. Objections should be made during the taking of the deposition.
8. The requesting party is to provide an independent third party operator, who shall, in addition to monitoring the equipment, be responsible for making a log-index. Such index must include the subject matter being discussed, cross-referenced to the reading on the digital counter, a listing of exhibits, and the names of all parties to the deposition.
9. At the close of the deposition, the independent third party's certification must be recorded orally. Thereafter, one of the originals shall be sealed in an appropriate container in the presence of counsel. The third party shall also certify the correctness and completeness of the recording in writing in the same manner a stenographic reporter certifies the typed record of a deposition. The original, with the certification attached thereto, shall be immediately filed with the clerk of the court. The original so filed may not be removed from the court's custody except upon written order of the court.
10. The independent third party is to retain possession of the other original, which may be used for the production of duplicates for parties to the suit.

